

AN ORDINANCE BY:
ANNE FAUVER AS SUBSTITUTED BY ZONING COMMITTEE

A SUBSTITUTE ORDINANCE TO AMEND THE 1982 ZONING ORDINANCE OF THE CITY OF ATLANTA BY REZONING EXISTING ZONING DISTRICTS C-1 (COMMUNITY BUSINESS) AND R-4 (SINGLE-FAMILY) WITHIN THE VIRGINIA-HIGHLAND COMMERCIAL DISTRICT TO THE NC-11 VIRGINIA-HIGHLAND NEIGHBORHOOD COMMERCIAL DISTRICT.

WHEREAS, the residents, business and property owners have requested to rezone certain properties in the Virginia-Highland neighborhood to the Neighborhood Commercial designation as shown on "Attachment A"; and

WHEREAS, the proposed application is in keeping with the purposes and intent of the regulations of the Neighborhood Commercial District ordinance; and

WHEREAS, the 1982 Zoning Ordinance and official zoning maps should be amended to include the proposed new designation;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS:

Section 1: That the 1982 Zoning Ordinance of the City of Atlanta is hereby amended adding a new Chapter 32K. NC-11 Virginia-Highland Neighborhood Commercial District, which shall read as follows:

Chapter 32K. NC-11 Virginia-Highland Neighborhood Commercial District

Sec. 16-32K.001. Scope of Provisions.

The regulations set forth in this Chapter are the specific regulations for the NC-11 Virginia-Highlands Neighborhood Commercial District. These regulations set forth herein shall apply in this district in addition to the general NC regulations or shall be applied instead of the general NC regulations where these regulations differ from the general NC regulations.

Sec. 16-32K.002. Specific Regulations.

The following regulations are specific to NC-11 Virginia-Highland Neighborhood Commercial District.

1. NPU notification. In addition to the required SAP submittal, the applicant shall also provide to the director of the bureau of planning a United States Postal Service certificate of mailing (first-class) of one copy of the full SAP application to the appropriate Neighborhood Planning Unit (NPU) chair or their designee for the purpose of notification and comment, and also a signed affidavit of said NPU notification. Said appropriate NPU shall have a period of 21 days from the date of the said certificate of mailing to provide one set of written comments to the bureau of planning prior to any SAP approval.

2. Principal Uses. The number of gasoline service stations within the district shall not exceed one (1).
3. Transitional Yards. In addition to the requirements of Section 16-32.009, the following requirements shall apply:
 - a. Above-ground parking structures located adjacent to transitional yards shall have planted within such yards a staggered double-row of Japanese Cryptomeria (*Cryptomeria japonica*) trees, or equivalent evergreen species, spaced a maximum distance of sixteen (16) feet on-center. Said trees shall have a minimum planted height of eight (8) feet and a minimum mature height of twenty-five (25) feet. These requirements shall apply throughout the district with the exception of parcels noted below in subsection (b).
 - b. For parcels located east of North Highland Avenue and south of Virginia Avenue, the following regulations shall apply:
 - i. Side and rear yards. Accessory parking lots or parking structures shall be permitted to be located within the side and rear transitional yard.
 - ii. Landscaping. Evergreen trees a minimum of six (6) feet in height shall be provided within the transitional rear yard at a minimum ratio of one (1) tree per four hundred (400) square feet of transitional rear yard. Said plantings may be permitted to be planted within accessory parking lots or parking structures.
 - iii. Additional screening. In addition to the screening requirements of Sec. 16-32.009.3(b), the following additional regulations shall apply within the transitional yard:
 - 1) The finished height of any parking structure shall be a minimum of seven (7) feet below the finished height of the required opaque screen wall or the adjacent grade, whichever is greater.
 - 2) Evergreen landscaping shall be planted on both sides of the opaque screen wall for the purposes of covering the wall with landscaping.
 - c. The landscape requirements of this subsection shall supplant the landscape requirements of Section 16-28.028(c)(iii).
4. Maximum building heights. Structures within the district shall have a maximum height of forty-two (42) feet and three (3) floors.
5. Supplemental zone. Supplemental zones are optional and shall not be required on any street in this district.
6. Outdoor dining. Outdoor dining may locate either within supplemental zones or by encroaching into the sidewalk clear zone. When outdoor dining encroaches into the sidewalk clear zone, the following criteria shall be met:
 - a. Shall have a minimum of six (6) feet wide of unobstructed sidewalk clear zone area;
 - b. No permanent structure or ornamentation shall be located within the area where encroachment is permitted and no element shall be attached to the sidewalk in any way;
 - c. At such time as the outdoor dining use is discontinued, sidewalks shall comply with all requirements of this chapter; and
 - d. Outdoor dining may be separated from the sidewalk only with movable planters, fencing or similar non-fixed barriers provided they do not exceed a height of thirty-six (36) inches including any plant material.
7. Relationship of building to street. Active uses shall be required at the sidewalk level of all buildings and structures.
 - a. All buildings shall have a defined sidewalk-level for purposes of the active-use requirement. Active uses shall be required within buildings and parking structures

at sidewalk-level for the entire length of said building facade except at ingress and egress points into parking structures or loading areas. When two or more floors meeting the definition of sidewalk-level exist within the same structure, this requirement shall only apply to the frontage of the sidewalk-level adjacent to the required sidewalk or provided supplemental zone.

- b. Sidewalk-level: any building floor within five (5) vertical feet of the adjacent required sidewalk or provided supplemental zone.
- c. For the purposes of this chapter active uses shall be serviced by plumbing, heating, and electricity and shall not include parking, non-residential storage areas, driveways, or queuing lanes parallel to the adjacent street.
- d. Minimum active use depths shall be provided for a minimum depth of 20 (twenty) feet as measured from the street-facing building facade.

8. Parking Requirements.

a. General:

- i. Off-site Parking: Any required parking shall be permitted to locate off-site anywhere within the NC-11 district by means of a special administrative permit approval, except as noted below in subsection 8(b) for eating and drinking establishments.
- ii. Shared parking. For the purposes of this NC district, a shared parking arrangement shall be defined as the use of a parking space by vehicles generated by two or more individual business establishments without conflict or encroachment. The director of the bureau of planning may grant an administrative variation (through a special administrative permit) to reduce parking requirements through a shared parking arrangement (whether on-site or off-site) subject to the following criteria:
 - 1) The arrangement shall avoid conflicting parking demands and provide for safe pedestrian circulation and access; and
 - 2) All shared parking spaces shall be clearly marked and signed reserved during specified hours which shall not be less than the hours of operation of the use.
- iii. An applicant seeking a special administrative permit for off-site parking or approval of a shared parking arrangement shall submit the following information:
 - 1) A to-scale map indicating location of the proposed parking spaces;
 - 2) Hours of business operation;
 - 3) Written consent from property owner of the proposed off-site parking area;
 - 4) Leases shall be provided to the Bureau of Buildings prior to the issuance of a certificate of occupancy. Lapse of a required lease shall render the business out of compliance with the parking regulations.
- iv. Reduction in parking. Reductions in parking requirements, except as noted in subsection (ii) above for shared parking arrangements, shall require a special exception by the board of zoning adjustments.

b. Eating and drinking establishments.

- i. Off-site parking. At any time when fourteen (14) eating and drinking establishments are legally permitted to operate within the district, no additional eating and drinking establishment shall be granted an administrative variation to allow for off-site parking but shall seek such relief from the board of zoning adjustment by special exception. As of the effective date of this chapter, the director of the bureau of planning (the "director") shall create and maintain a census of the total number of eating and drinking

establishments operating in the district. The census shall be verified to confirm the actual number of eating and drinking establishments in operation in the district within fifteen (15) days of the date that an application for a variation to allow for off-site parking for an eating and drinking establishment is received by the director to determine whether an application to the board of zoning adjustment is required.

- ii. Shared parking. Parking facilities containing the required parking for any eating and drinking establishment shall not provide less than the total of the minimum number of parking spaces that are required for each individual eating and drinking establishment which claims that the parking facility is being used to meet its parking requirement. No individual use meeting its required parking within a facility that serves multiple uses may claim any space that is being utilized by another use unless those spaces are the subject of a shared parking arrangement as permitted in subsection (iii) below.
- iii. Reduction of parking. Eating and drinking establishments shall not be granted an administrative variation to reduce the required parking or utilize shared parking but may seek this relief by application to the board of zoning adjustment for a special exception. All other uses seeking to reduce their parking through a shared parking arrangement shall comply with subsection 8(a) above.
- iv. Parking Signage. Parking facilities providing parking to serve multiple business establishments (whether on-site or off-site) shall include signage that identifies all said business establishments. Such signage shall be visible near the entrance(s) of said parking facility.

